

Texas. Although Avistar had earlier designated an agent for service of process in Texas, upon information and belief, it is not currently in good standing with the Secretary of State for the State of Texas.

3. Avistar sells, manufactures and/or assembles videoconferencing hardware and software products, including but not limited to AvistarVOS Server, AvistarVOS Client, Avistar Community Exchange, AvistarVOS Proxy, the Avistar Multi-Channel IP Gateway, the Avistar H 320/H.323 Video Gateway, the Avistar Switch, and Avistar Endpoints (collectively, "the Accused Avistar Products"). Tandberg is informed and believes and based thereon alleges that the Accused Avistar Products have infringed and continue to infringe a U.S. Patent owned by Tandberg. Accordingly, Tandberg seeks monetary damages to remedy Avistar's past infringement of the patent and an injunction to prevent further acts of infringement.

II. JURISDICTION AND VENUE

4. This infringement action arises under the patent laws of the United States, Title 35, United States Code. This Court has jurisdiction of this action under 28 U.S.C. §§ 1331, 1338(a).

5. Avistar has done – and continues to do – business in the Eastern District of Texas. Avistar has minimum contacts with the Eastern District of Texas such that this venue is a fair and reasonable one. Avistar has committed purposeful acts or transactions in the State of Texas such that it reasonably knew and expected that it could be haled into a Texas court as a consequence of such activity. Further, Avistar has committed acts of infringement in the Eastern District of Texas. Accordingly, venue in the Eastern District of Texas is proper under 28 U.S.C. §§1391(b), 1400(b).

III. PATENT INFRINGEMENT

6. On September 16, 2003, United States Patent No. 6,621,515 ("the '515 Patent") duly and legally issued. This patent concerns, among other things, systems and methods for routing video calls. A copy of the '515 patent is attached hereto as "Exhibit A" and made a part hereof.

7. Tandberg Telecom AS is the owner of the '515 patent and has the right to enforce the '515 patent with respect to Avistar.

8. On information and belief, Avistar uses systems and methods for routing video calls within the scope of one or more of the claims of the '515 Patent. As a result, Avistar has infringed and continues to infringe one or more of the claims of the '515 Patent as defined by 35 U.S.C. § 271. Tandberg has suffered damage by reason of Avistar's infringement and will continue to suffer additional damage until this Court enjoins the infringing conduct.

9. This is an "exceptional case" justifying an award of attorneys' fees and costs to Tandberg pursuant to 35 U.S.C. § 285.

10. Tandberg believes that Avistar will continue to infringe Tandberg's '515 Patent unless enjoined by this Court. Such infringing activity causes Tandberg irreparable harm and will continue to cause such harm without the issuance of an injunction.

IV. JURY DEMAND

11. Plaintiff requests trial by jury pursuant to Federal Rule of Civil Procedure 38.

V. PRAYER FOR RELIEF

12. Tandberg requests that the Court find in its favor and against Avistar and that the Court grant the following relief:

a. Judgment that one or more of the claims of the '515 Patent have been

infringed, either literally and/or under the doctrine of equivalents, by Avistar;

b. Judgment in favor of Tandberg for the full amount of its actual damages caused by Avistar's infringing activities, including an assessment of interests and costs;

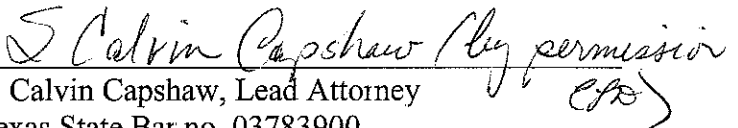
c. Judgment that this is an "exceptional case" and awarding Tandberg its reasonable attorneys' fees and costs pursuant to 35 U.S.C. § 285;

d. That Avistar be permanently enjoined from further activity or conduct that infringes the claim of the '515 Patent; and

e. That the Court award Tandberg such other and further relief as is just and proper under the circumstances.

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Respectfully Submitted,


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